IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1232 OF 2007

Mr.Ramchandra alias Sakanandan
S/o Banka Goud. ...Applicant.

Versus

The State of Maharashtra ...Respondent.

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Mr.A.M.Saraogi, Adv. for the Applicant.
Mr.Peter Lobo, Adv. for orig.complainant.
Mr.S.S.Pednekar, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 16th April, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The applicant is seeking anticipatory bail in C.R.No.27 of 2007 of D.B.Marg Police Station. The said case is under Section 381 of IPC.

3. It is the prosecution case that the applicant was working with one Ashok Mundra at Hong Kong. Ashok Mundra is a diamond merchant. On 18.10.2006 the applicant had come to India on

leave. Thereafter, he fell sick and he asked for an amount of Rs.15,000/- from his boss i.e. Ashok Mundra. Ashok Mundra informed his manager in his office in India to give Rs.15,000/- to the applicant and asked the applicant to collect it from his manager in his office in Mumbai. Thereafter, the applicant went to the office of the Manager - Pramod Malpani (complainant). At that time diamonds packets were kept on the table. The Manager asked the applicant to clean some of the diamonds. Thereafter, he gave the applicant Rs.15,000/- and the applicant went away. In the evening, while checking, it was found that diamonds worth about Rs.10 lacs were found to be missing. Hence, complaint came to be lodged. All the above facts have been stated in the statement of the complainant Pramod Malpani.

4. Mr.Saraogi, has stated that infact the applicant has left the services of Ashok Mundra and he has come to India. He has further stated that at no point of time, the applicant come to Mumbai but infact the applicant had come to Delhi and not Mumbai. He submitted that after leaving the services of Ashok Mundra, the applicant joined

the services of the sister of Ashok Mundra. Due to this, Ashok Mundra was upset as he feared some business rivalry between him and his sister. Hence it is submitted that the applicant has been falsely implicated.

5. The statements of Ashok Mundra as well as Pramod Malpani clearly shows that the applicant had not left the services of Ashok Mundra, but, he had come to Mumbai on leave and thereafter he asked for Rs.15,000/- and when he was asked to collect the same from the office of Ashok Mundra in Mumbai, he stole diamonds worth about Rs.10 lacs.

6. In my view, the material collected by the prosecution in the present case is such as to point out an accusing finger towards the present applicant. The Apex Court has observed in the decision of **Directorate of Enforcement Vs. P.V.Prabhakar Rao,** reported in **1997 SCC (Cri.) 978** that when the material gathered by the prosecution is such as to point out an accusing finger towards the accused, it is not a fit case to grant anticipatory bail.

7. Application is rejected.

8. It is made clear that the trial Court shall not be influenced by any of the observations made in this order, while deciding the bail application or while deciding the trial of the applicant.

9. At this stage, Mr.Saraogi states that the applicant may be granted some time to surrender. The applicant is granted time upto 24th April, 2007 to surrender.

(SMT.V.K.TAHILRAMANI,J.)